IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 632 OF 2005

Janak Bapulal Shah ...Petitioner.

V/s

Rajani Ramchand Aswani
and anr. ...Respondents.

Mr. S.V.Marwadi for the petitioner.
Mr. K. Khan for respondent No.1.
Mr. D.P. Adsule for the State
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CORAM: V.M.KANADE,J.

DATE: 28th March, 2005

P.C.:

1. Heard the learned Counsel for the Petitioner and

the learned Counsel for the respondent No.1.

2. Petitioner is challenging the order passed by the Sessions Court which confirmed the order of the Metropolitan Magistrate, 40th Court, Girgaum Mumbai rejecting the application of the petitioner for sending two cheques being Exhibits C-2 and C-3 to the handwriting expert for obtaining his opinion.

3. The learned Counsel appearing on behalf of the petitioner has taken me through the judgment and order of the Sessions Court as also the order of the Trial Court. The Sessions Court has given cogent reasons while confirming the order passed by the Metropolitan

Magistrate. Apart from appreciating the evidence of P.W.1, the Sessions Court has also considered the evidence of the petitioner who had examined himself as D.W.1. The Sessions Court has considered that the petitioner had deposed that the cheque in question was issued by him with his signature by affixing a rubber stamp and it was handed over to Mohan Chandumala. Further, in his cross-examination when the petitioner was confronted with the cheque Exhibit-C-3, he has specifically admitted that the cheque bears his signature as well as the signature of accused No.3. The Sessions Court has also observed that the petitioner has admitted that Exhibits C-2 and C-3 bear his signature. The Sessions Court after considering the evidence on record has given cogent reasons for dismissing the application of the petitioner. The Trial Court has also observed that under section 73 of the Evidence Act, the Court can compare the disputed signatures and writing with the admitted signatures and writing and the court can arrive at a proper conclusion.

4. In view of the cogent reasons given by the Sessions Court, I do not see any reason to interfere with the order passed by the Metropolitan Magistrate or by the Sessions Court. This is an old complaint of

1998. By order dated 11/3/2005, two weeks' time was granted to the petitioner to deposit an amount of Rs 75,000/-. However, that amount has not been deposited. It is obvious that the petitioner is trying to protract the litigation. The Trial Court is, therefore, directed to decide Criminal Case as expeditiously as possible and, in any case, within a period of three months.

5. Criminal Writ Petition is accordingly disposed of.

V.M.KANADE, J.